

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARLOS ALVAREZ CHICAS, ALONSO
VILLATORO, MISAEAL ALEXANDER MARTINEZ
CASTRO, ANGEL MARTINEZ, EDWIN ULLOA
MOREIRA and MATEO UMANA individually and on
behalf of all others similarly situated,

Plaintiffs,

-against-

KELCO CONSTRUCTION, INC., KELCO
LANDSCAPING, INC., E.L.M. GENERAL
CONSTRUCTION CORP. D/B/A KELLY'S CREW,
JOHN KELLY and JOSEPH PROVENZANO,

Defendants.

Case No. 1:21-CV-09014
(PAE)(SDA)

**DECLARATION OF HELDER PIEDADE IN SUPPORT OF
DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR
CONDITIONAL CERTIFICATION PURSUANT TO 29 U.S.C. § 216(b)**

I, Helder Piedade, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Motion for Conditional Certification pursuant to 29 U.S.C. § 216(b). I am personally familiar with the facts set forth below and submit this declaration based on my personal knowledge.
2. I am a resident of Elizabeth, New Jersey. I currently work for Kelco Construction as a mason. I have been working for Kelco Construction as a mason since early 2021.
3. My duties as a mason include, but are not limited to, installing concrete, sidewalk, and pavers.
4. I am a union member of Local 1010.
5. I regularly worked for Kelco Construction approximately five (5) days per week, eight (8) hours per day.

6. Kelco Construction did not require me to report to 25 Newton Place, Hauppauge, New York ("Hauppauge facility") or anywhere else by a specific time each morning prior to the start of the workday. I visited the Hauppauge facility only one (1) time in the summer for a social event hosted by Kelco Construction.

7. I usually commute into New York City alone from my residence in New Jersey using my personal vehicle. Kelco Construction pays for my EZ Pass and gas expenses for me to drive to work more easily.

8. I sometimes pick up two (2) to three (3) other workers who live near me in Elizabeth, New Jersey. I do this voluntarily and without Kelco Construction's instruction or request, and do so as a favor to my coworkers who are also my friends.

9. I do not transport any tools or materials in my personal vehicle to work.

10. I generally leave my residence at approximately 5:30 a.m. for work at a New York City jobsite and arrive at the jobsite between 6:00 a.m. and 7:00 a.m. I start work at 7:00 a.m.

11. After the end of the workday, I leave the jobsite at approximately 3:30 p.m. Depending on traffic, it takes me approximately 30 minutes to one (1) hour to arrive back home from work.

12. I do not return to the Hauppauge facility at the end of the workday. I drive to my home directly after work.

13. I am paid an hourly rate of pay of approximately \$44.00 from Kelco Construction.

14. I rarely worked hours over forty (40) per week. Kelco Construction paid me for all hours I worked over forty (40) in a week. I did not work any overtime hours in 2022.

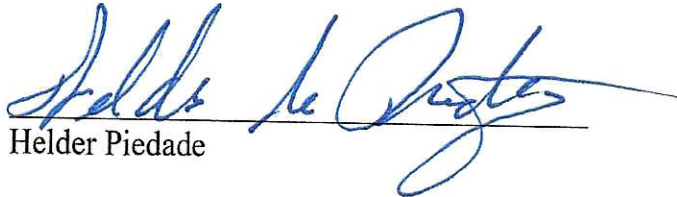
15. My primary language is Portuguese. On January 25, 2023, Francisco Ferenczi, CCI verbally translated this declaration to me in Portuguese. I fully understand the contents of this

declaration in my primary language.

16. This declaration was prepared by counsel for Defendants in the action based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for the Defendants that I should sign this declaration if I want to and if everything within it is true and correct to the best of my knowledge, information, and belief. I have been given a full opportunity to review this declaration carefully and freely and make any corrections and additions of any kind.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: January 25, 2023


Helder Piedade